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09/745,499	12/22/2000	Ralph L. Anderson	03768/9323 (14586)	1378

7590

05/30/2003

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EXAMINER

VENKAT, JYOTHSNA A

ART UNIT

PAPER NUMBER

1615

DATE MAILED: 05/30/2003

12

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary***File copy*

Application No.

09/745,499

Applicant(s)

ANDERSON ET AL.

Examiner

JYOTHSNA A VENKAT

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**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --****Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 10 March 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-42 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 and 22-42 is/are rejected.
- 7) ☒ Claim(s) 21 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3, 9.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

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### **DETAILED ACTION**

Receipt is acknowledged of supplemental IDS , extension of time and amendment a filed on 2/3/03 and 3/10/03. Claims 1-42 are pending in the application and the status of the application is as follows:

#### ***Information Disclosure Statement***

Applicants are notified that that the IDS filed on 6/11/01 has been considered with respect to pages 1-4 only. Pages 5-9 have not been considered as it corresponds to application serial number 09/746,720. All the pages of 1449 are furnished with this office action.

The following rejections are maintained for reasons of record.

#### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-3, 6-8, 13, 15-19, 22-27, 30-31, and 37-42 are rejected under 35 U.S.C. 102(b) as being anticipated by EP O 869,216 ('216).

The instant application is claiming a method of forming an ant-microbial wiper comprising the steps of:

*Providing a controlled release anti-microbial formulation comprising an anti-microbial agent, which is, silver ions and the antimicrobial formulation comprises a polymer*

*Adhering said formulation to a web containing the fibers*

*The polymer can further comprise various additives.*

See page 3, lines 30 et seq for the web, the cellulose fibers reads on the claimed polymer, see page 4, line 24 for the claimed silver ions, see also page 5, and page 6 for the various antimicrobial formulations and the agents which read on the claimed “anti- microbial agent” and “anti-microbial formulations”, see page 5 for the claimed surfactant and see the claims. The method reads on the claimed “coating “ of claim 15. The components are same, there fore the claims 16-19, and 38-42 are inherent absence of evidence to the contrary. The claimed property of “ which web retains liquid after each rinse cycle, and which formulation releases sufficient anti-microbial agent into the retained liquid after each of at least five normal cycles so that the retained liquid is an anti-microbial solution “ is inherent absence of evidence to the contrary.

### **ARGUMENTS**

3. Applicant's arguments filed 3/10/03 have been fully considered but they are not persuasive.

Applicant's argue that '216 teaches the use of low-water soluble biocidal compositions and because of the biocidal composition's low water solubility, any liquid that the '216 sponges or wipes leave on a surface would be substantially free of the biocidal compositions and '216 fails to anticipate the claim 1 limitation of “ *which formulation releases sufficient anti-microbial agent into the retained liquid after each of at least five normal cycles so that the retained liquid is an antimicrobial solution*”

In response to the above argument, it is the position of the examiner that '216 disclose the wiper with the anti-microbial agent, which is on absorbent web. Seepage 3, lines 32-40. With respect to the claim 1 limitation, which is “*which formulation releases sufficient anti-microbial*

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*agent into the retained liquid after each of at least five normal cycles so that the retained liquid is an antimicrobial solution”* is inherent because applicant’s wipe is dunked in water. See page 26 of the specification where the specification teaches that the treated wiper is dunked in water the fluid extracted after rinse and wring cycle and this procedure is repeated and the amount of anti-microbial agent is measured in the wash liquid after each simulated wring step. Therefore if the wipe of ‘216 also goes through the same procedure as of the instant application then the wiper of ‘216 *releases sufficient anti-microbial agent into the retained liquid after each of at least five normal cycles so that the retained liquid is an antimicrobial solution”*.

Applicants argue that ‘216 do not disclose applying an anti-microbial formulation to “at least one of two surfaces in a pre-selected pattern as required by claim 16 .

In response to the above argument, it is the position of the examiner that ‘216 disclose wipes and wipes are woven they have design or preselected pattern . The claim does not define the exact pattern and therefore ‘216 anticipate claim 16 limitation. The wipe has formulation and therefore it is met by the limitation “ the formulation being applied to at least one of said surfaces”.

Applicants argue that claim 38 is not inherent because an injection into the sponge is not equivalent to claim 38 limitation of “ said formulation covers from about 10-60% of said at least one surface of the web”.

In response to the above argument, it is the position of the examiner that ‘216 disclose at page 3” providing a dispersion of biocidal composition in carrier having low aqueous solubility and impregnating the said flexible hydrophilic article with the carrier containing the biocidal composition to provide biocidal effective dosage of the biocidal composition to said article”.

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Thus impregnating means it is applied to one surface of the web. Regarding the claim 38 limitation of “ said formulation covers from about 10-60% of said at least one surface of the web”, it is inherent **as applicants did not present any evidence to the contrary.**

Claims 1-5, 13-15,20, 22-29, and 37-42 are rejected under 35 U.S.C. 102(b) as being anticipated by EP O 709, 507 ('507)

The instant application is claiming a method of forming an ant-microbial wiper comprising the steps of:

*Providing a controlled release anti-microbial formulation comprising an anti-microbial agent, and the antimicrobial formulation comprises a polymer mixture*

*Adhering said formulation to a web containing the fibers*

*The polymer can further comprise various additives.*

See page 2, for the web, see page 3 for the claimed polymer mixture, see also page 3, lines 35-55, see the examples where the preparation reads on claim 20, see the examples for the claimed additives and see page 3, lines 26-32 for the claimed surfactants. The method reads on the claimed “ coating “ of claim 15. The components are same, there fore claims 38-42 are inherent absence of evidence to the contrary. The claimed property of “ which web retains liquid after each rinse cycle, and which formulation releases sufficient anti-microbial agent into the retained liquid after each of at least five normal cycles so that the retained liquid is an anti-microbial solution “ is inherent absence of evidence to the contrary.

### **ARGUMENTS**

Applicant's arguments filed 3/10/03 have been fully considered but they are not persuasive.

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Applicant's argue that '507 teaches the use of slow release sanitiser and '507 thus teaches that the sanitiser must remain bound to the non-woven article and the sanitiser is bound so tightly that it is capable of remaining bound even after repeated washings ( example 3) where as applicant's claim a wiper article that is released onto a liquid that comes in contact with the wiper and '507 fails to anticipate the claim 1 limitation of "*which formulation releases sufficient anti-microbial agent into the retained liquid after each of at least five normal cycles so that the retained liquid is an antimicrobial solution*".

In response to the above argument, it is the position of the examiner that '507discloses at page 3, lines 42-45 non-woven material comprising a binding composition with incorporated sanitiser where in the incorporated sanitiser is from 10-45%. With respect to the claim 1 limitation, which is "*which formulation releases sufficient anti-microbial agent into the retained liquid after each of at least five normal cycles so that the retained liquid is an antimicrobial solution*" is inherent because applicant's wipe is dunked in water. See page 26 of the specification where the specification teaches that the treated wiper is dunked in water the fluid extracted after rinse and wring cycle and this procedure is repeated and the amount of anti-microbial agent is measured in the wash liquid after each simulated wring step. Therefore if the non-woven article of '507 also goes through the same procedure as of the instant application then the non-woven article of '507 *releases sufficient anti-microbial agent into the retained liquid after each of at least five normal cycles so that the retained liquid is an antimicrobial solution*".

Applicant's also argue that there is no teaching in '507 for the prevention of microbial growth on the surface of a non-woven fabric to less than the entire surface of the web and thus claims 38-40 are not inherently disclosed by '507.

The examiner is unable to understand the argument with respect to “for the prevention of microbial growth on the surface of a non-woven fabric to less than the entire surface of the web”. The ‘507 discloses all the components claimed as the instant application and the limitation of claims 38-42 are inherent **and applicants did not present any evidence to the contrary.**

4. Claims 1-5, 22-29, and 38-42 are rejected under 35 U.S.C. 102(b) as being anticipated by EP O 113, 254 (‘254)

The instant application is claiming a method of forming an ant-microbial wiper comprising the steps of:

*Providing a controlled release anti-microbial formulation comprising an anti-microbial agent, and the antimicrobial formulation comprises a polymer*

*Adhering said formulation to a web containing the fibers*

*The polymer can further comprise various additives.*

See claims for the web, see page 4 for the polymer and the claimed latex adhesive, see page 3 for the claimed anti-microbial agent. See page 6. The components are same, there fore claims 16-19, and 38-42 are inherent absence of evidence to the contrary. The claimed property of “ which web retains liquid after each rinse cycle, and which formulation releases sufficient anti-microbial agent into the retained liquid after each of at least five normal cycles so that the retained liquid is an anti-microbial solution “ is inherent absence of evidence to the contrary.

### **ARGUMENTS**

Applicant's arguments filed 3/10/03 have been fully considered but they are not persuasive.

Applicant's argue that ‘254 discloses the prevention of microbial growth on the surface of the non-woven fabric and thus requires the antimicrobial agent to remain with the fabric and



also '254 discloses that a fabric which releases the antimicrobial agent into a contacted solution is undesirable at page 2, lines 28-31 where as applicant's claim a wiper article that is released onto a liquid that comes in contact with the wiper and '254 fails to anticipate the claim 1 limitation of "*which formulation releases sufficient anti-microbial agent into the retained liquid after each of at least five normal cycles so that the retained liquid is an antimicrobial solution*".

In response to the above argument, it is the position of the examiner that the '254 reference does not disclose that a fabric which releases the antimicrobial agent into a contacted solution is undesirable at page 2, lines 28-31. Clarification is requested. With respect to the claim 1 limitation, which is "*which formulation releases sufficient anti-microbial agent into the retained liquid after each of at least five normal cycles so that the retained liquid is an antimicrobial solution*" is inherent because applicant's wipe is dunked in water. See page 26 of the specification where the specification teaches that the treated wiper is dunked in water the fluid extracted after rinse and wring cycle and this procedure is repeated and the amount of antimicrobial agent is measured in the wash liquid after each simulated wring step. Therefore if the non-woven article of '254 also goes through the same procedure as of the instant application then the non-woven article of '254 *releases sufficient anti-microbial agent into the retained liquid after each of at least five normal cycles so that the retained liquid is an antimicrobial solution*".

Applicant's also argue that there is no teaching in '254 for the prevention of microbial growth on the surface of a non-woven fabric to less than the entire surface of the web and thus claims 38-40 are not inherently disclosed by '254.

5. The examiner is unable to understand the argument with respect to "for the prevention of microbial growth on the surface of a non-woven fabric to less than the entire surface of the web".

The '254 discloses all the components claimed as the instant application and the limitation of claims 38-42 are inherent and **applicants did not present any evidence to the contrary.**

Claims 1-2, 9-10, 13, 15, 22-27, 32-34, and 37-42 are rejected under 35 U.S.C. 102(b) as being anticipated by WO 90/02166('166).

The instant application is claiming a method of forming an ant-microbial wiper comprising the steps of:

*Providing a controlled release anti-microbial formulation comprising an anti-microbial agent, and the antimicrobial formulation comprises a polymer wherein the anti-microbial agent is calcium hypochlorite*

*Adhering said formulation to a web containing the fibers*

*The polymer can further comprise various additives.*

See the abstract, see the paragraph bridging pages 2-3 for the web, see page 3, lines 10-27 for the polymer, see page 4, line 22 for the claimed anti-microbial agent. See page 5 for the surfactant. The components are same, therefore claims 16-19, and 38-42 are inherent absence of evidence to the contrary. The claimed property of “which web retains liquid after each rinse cycle, and which formulation releases sufficient anti-microbial agent into the retained liquid after each of at least five normal cycles so that the retained liquid is an anti-microbial solution” is inherent absence of evidence to the contrary.

### **ARGUMENTS**

6. Applicant's arguments filed 3/10/03 have been fully considered but they are not persuasive.

Applicant's argue that '166 discloses " sandwiching " solid chlorine releasing particles in an adhesive polymer between two substrate layers by using heat and pressure to melt the layers together where as applicant's claim 1 requires adhering said formulation to an absorbent web.

In response to the above argument, '166 indeed disclose sandwiching " solid chlorine releasing particles in an adhesive polymer between two substrate layers by using heat and pressure to melt the layers together. This process adheres the formulation to the absorbent web. According to the " Webster's dictionary" the meaning of adherence is " to say attached" . Thus the limitation of claim 1 with respect to " adherence is met by the reference.

Applicant's also argue that '166 is silent as to how many rinse cycles can the article can sustain and still provide an effective antimicrobial solution.

In response to the above argument, it is the examiner's position that claim 1 limitation is inherent, because applicant's wipe is dunked in water. See page 26 of the specification where the specification teaches that the treated wiper is dunked in water the fluid extracted after rinse and wring cycle and this procedure is repeated and the amount of anti-microbial agent is measured in the wash liquid after each simulated wring step. Therefore if the wipe of '166 also goes through the same procedure as of the instant application then the wipe of '166 *releases sufficient anti-microbial agent into the retained liquid after each of at least five normal cycles so that the retained liquid is an antimicrobial solution*".

Applicant's also argue that there is no teaching in '166 for sandwiching solid chlorine releasing particles in an adhesive polymer between two substrate layers to less than the entire surface of the web and thus claims 38-40 are not inherent.

In response to the above argument, it is the position of the examiner the '166 discloses wipe with an antimicrobial agent, and the limitation of claims 38-42 are inherent and **applicants did not present any evidence to the contrary.**

**The following new ground of rejection is necessitated by the IDS submitted on 2/3/03.**

7. Claims 1-3, 9, 11-13, 16-19, 22-27, and 35-42 are rejected under 35 U.S.C. 102(b) as being anticipated by U. S. Patent, 5,421, 898 ('898)

The instant application is claiming a method of forming an ant-microbial wiper comprising the steps of:

*Providing a controlled release anti-microbial formulation comprising an anti-microbial agent, and the antimicrobial formulation comprises a polymer wherein the anti-microbial agent is quaternary ammonium compound*

*Adhering said formulation to a web containing the fibers*

*The polymer can further comprise various additives.*

See the abstract, see col.2 for the non-woven or woven wipe, see col.2, lines 25-35 which anticipates claims 22-23, see col.3, lines 9 et seq and col.4, lines 1-55, which reads on claims 13, 25 and 37, see claim 12 which reads on the claimed anti-microbial agent of claims 11-12, and 35-37, see col.5, lines 30-39 which anticipates the claim 1 limitation" which web retains liquid after each rinse cycle, and which formulation releases sufficient anti-microbial agent into the retained liquid after each of at least five normal cycles so that the retained liquid is an anti-microbial solution. The components are same, there fore claims 38-42 are inherent absence of evidence to the contrary.

*Allowable Subject Matter*

8. Claim 21 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
9. Applicant's submission of an information disclosure statement under 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p) on 2/3/03 prompted the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 609(B)(2)(i). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

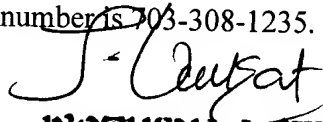
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JYOTHSNA A VENKAT whose telephone number is 703-308-2439. The examiner can normally be reached on Monday-Thursday, 9:30-7:30:1st and 2nd Friday off.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, THURMAN K PAGE can be reached on 703-308-2927. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3592 for regular communications and 703-308-7924 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1235.

  
**JYOTHSNA A VENKAT**  
**Primary Examiner**  
**Art Unit 1615**

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May 29, 2003